



Office of Program Research

House of Representatives

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April 25, 1988

MEMORANDUM

TO: Representative Art Wang, Chair
Commerce & Labor Committee

FROM: Joan Elgee, Staff Counsel

RE: POSSIBLE LIQUOR STUDY ISSUES

DEFENDANT'S EXHIBIT

CASE
NO. C04-0360P

EXHIBIT
NO. 502

At your request, following are liquor policy issues the Committee may wish to study, with brief explanations:

1. Tied-house laws.

The tied-house law prohibits certain financial "ties" between liquor manufacturers or wholesalers, and liquor retailers. In 1987 and again in 1988, the legislature passed bills to relax the law to allow beer and wine wholesalers to sell nonliquor food products (e.g. Eagle Snacks - 1987, seltzers - 1988) on 30 days credit. A bill was also introduced in 1988 which would have allowed manufacturers and wholesalers to entertain retailers (SB 6612 - died in Senate Economic Development and Labor). The Liquor Control Board has under consideration proposed rules requiring licensees to submit affidavits of compliance with the tied-house law.

2. Licensing.

- a) *Types and number of licenses and permits.* The Liquor Control Board currently issues 10 kinds of retail licenses (e.g. Class H) and 16 kinds of nonretail licenses (e.g. wholesaler). The Board also issues permits to use liquor to such persons as physicians. In the last few years, the legislature has created several new licenses to deal with specific situations (e.g. Class S ship chandlers license).
- b) *Restricting issuance of licenses.* The issuance of licenses to convenience stores in neighborhood locations has caused some controversy. HB 1409, which the Committee passed in 1988 (died in Rules) would have given the Liquor Control Board authority to deny a license if the area was already adequately served or the business would be incompatible with the neighborhood.

3. Taxes.

- a) *Amount and allocation of taxes.* State liquor taxes generated approximately \$82 million in FY 1987. Washington's tax on spirits is

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the highest in the nation; taxes on beer and wine rank 33rd and 12th, respectively. The general fund and the cities receive most of the funds. In the last several years, the legislature has considered various proposals to change the amount and allocation of the taxes. (e.g. HB 1528 - placing surtax on liquor for treatment programs).

- b) *Equivalency.* "Equivalency" refers to proposals to make the taxes on beer, wine, and spirits more equal. For example, redefining "wine" to include certain drinks with spirits (e.g. spirit coolers) would allow such drinks to be more competitive.

5. Issuance of Class H licenses.

Certain restrictions apply to the issuance of Class H licenses (liquor by the drink in restaurants, clubs and hotels). The Liquor Control Board has adopted a liquor/food ratio requirement to implement the statutory mandate that restaurants be "maintained in a substantial manner as a place for . . . complete meals". Recently, the Board changed the ratio from 60/40 to 70/30. The total number of Class H licenses may not exceed one license for each 1500 persons. Finally, the legislature has directed the Board to generally issue licenses only in business districts and to refuse a license if the Board determines the area is already adequately served and to generally issue licenses only in business districts. The later provisions give the Board some discretion in issuing licenses.

6. Fortified wine.

In 1987, the legislature passed a law restricting the sale of fortified wine in the state's larger counties. An administrative law judge recently upheld the Liquor Control Board's ban on the sale of fortified wines by 6 licensees in Seattle's downtown area. Proposals to expand the ban, both under current law and by legislation, have been discussed.

7. Fees.

License fees are set by statute. License fees have not been comprehensively examined or raised in approximately 10 years.

8. Retail sales of beer and wine below cost.

The Liquor Control Board has for years prohibited sales below cost to prevent beer and wine from being used as "loss leaders" and to otherwise prevent unfair competition. Until recently, the Board's rule prohibited sales of beer and wine at less than "acquisition cost plus 10 percent". In February, 1988, as part of a settlement brought by Costco, the Board amended the rule to simply prohibit sales at less than "acquisition cost."

9. Liquor Control Board - workload/efficiency.

The Efficiency Commission is examining the Liquor Control Board's inventory and fleet control. A related efficiency issue is the relationship of Board employees and declining state liquor store sales. A 1987-88 budget proviso provides for the closure of state liquor stores if the yearly average of gross bottle sales falls below 80,000.

10. Spirit coolers.

Spirit coolers are coolers made with spirits rather than the traditional wine alcohol base. Sale of spirit coolers raises two issues: sale of spirits by private retailers, and equivalency (see "taxes" above).

11. Continuing retail sales of liquor by the state.

Washington is one of 18 "control" states. Various levels of removing the state from retail liquor sales have been proposed in the last 10 years.

12. Parallel marketing.

In 1985, the Liquor Control Board entered the "parallel market" by importing liquor from other than the manufacturer's authorized distributor. Price savings have resulted but quality control and other issues have been raised.

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